



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201327022

APR 11 2013

TLEP RA: A2

Re:

Company =

Dear :

This letter is to inform you that the Company's February 10, 2012 application for a waiver of the minimum funding standard for the 20 plan year, under Section 412(c) of the Internal Revenue Code, has been denied. The Company has not demonstrated a temporary substantial business hardship which would meet the requirements of Section 412(c)(2).

The Company is a personal services corporation which engages in landscape architecture, civil engineering, and land planning services. The Company adopted the Plan in 1970 and funded it in accordance with the requirements of ERISA and the Code. The Plan is a single employer defined benefit plan. Due to earlier financial considerations, benefit accruals to the Plan ceased as of June 20 .

As a result of the recession of 20 , the Company's revenue dropped % from 20 to 20 , resulting in a steep decline in profits and staff lay offs. In 20 , the Company changed its plan actuary. The new actuary noted an error in the minimum funding requirements for 20 , which resulted in an unpaid minimum funding requirement for 20 . The minimum required contribution for 20 was also not funded, leaving a large unpaid minimum required contribution as of December 1, 20 .

The waiver request for the plan year ending December , 20 incorrectly included the unpaid minimum required contributions for 20 and 20 . The Company made minimal contributions for the 20 and 20 plan years; not enough to eliminate the unpaid minimum required contribution.

Projections provided by the Company on November , 20 provided estimated contributions available to the Plan for the six year period 20 – 20 . Even if the waiver was assumed to be granted for the 20 plan year, the Company would not be able to meet the minimum required contributions plus pay off the unpaid minimum required contributions as of December , 20 . The Company projects minimal profitability for this time period, even prior to the contributions to the pension plan. Therefore, the analysis does not indicate that this is a temporary hardship; given consecutive years of poor financial results from 20 to 20 and projections to 20 . Because the Company's projections indicate that it is unable to satisfy future minimum funding requirements, it is unreasonable to assume that the Plan will continue only if a funding waiver is granted.

As provided in our tentative adverse decision in our correspondence of January , 20 , you were entitled to request a conference of right within 21 calendar days from the date of that letter. We did not receive a request from you or your Authorized Representative within that 21 day period, which ended February , 20 . As a result, your request for a waiver of the minimum funding standard for the plan year ending December , 20 , has been denied.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

We have sent a copy of this letter to the Manager, EP Classification in , and to the Manager, EP Compliance Unit in . We have also sent a copy of this letter to your authorized representative pursuant to a power of attorney (Form 2848) on file in this office. If you have any questions regarding this matter, please contact Mr. (ID #) at

Sincerely yours,

David M. Ziegler
Manager, EP Actuarial Group 2